## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD SEMULKA, : CIVIL NO. 1:CV-09-1718

Plaintiff

MULTIPLE JOHN DOE, et al.,

v.

**Defendants** 

## MEMORANDUM

On August 26, 2009, Plaintiff Semulka filed a complaint alleging multiple civil rights claims against, among others, prison employees of Allenwood Federal Correctional Institution and Bureau of Prisons officers, Pennsylvania State Police employees, Pennsylvania Attorney General employees, personal residents of Canonsburg Borough, and the Canonsburg Police Department. By order dated December 3, 2009, the case was dismissed for Plaintiff's failure to comply with orders dated September 8, 2009, September 29, 2009, and October 14, 2009 directing him to file an amended complaint. Plaintiff appealed the December 3, 2009 order and the Third Circuit Court of Appeals reversed this court and remanded the case. By orders dated May 3, 2010 and June 28, 2010, Plaintiff was again directed to file an amended complaint by July 30, 2010.

On July 17, 2010, a document was filed entitled "Complaint for Temporary Restraining Order Preliminary and Permanent Injunctive Relief, Declaratory Relief." This court will interpret this filing as the amended complaint that was to be filed by July 30, 2010.

The complaint is filed to the case number above, assigned by the Middle District of Pennsylvania, but the heading over the caption reads "In the United States

District Court for the Western District of Pennsylvania." In the amended complaint, all federal and state defendants previously named are no longer named as defendants and these defendants are deemed to be withdrawn from the action. Plaintiff was advised by order of September 8, 2009 that an "amended complaint must be complete in all respects. It must be a new pleading which stands by itself as an adequate complaint without reference to the complaint already filed." (Doc. 4.)

The amended complaint sets forth the following claims: (1) nuisance violations of Canonsburg Borough Ordinance No. 1255 (Dog Barking); (2) Cruelty to animals in violation of Pennsylvania Cruelty to Animals Statute 5511(c)(1) & (2)(ii)(B); and (3) additional violations of [Canonsburg Borough] ordinance 1285(dogs) and claims under section 822 of the Restatement of Torts. Not only has the complaint been filed in the wrong venue but it fails to state a federal cause of action.

The complaint will be dismissed. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: July 28, 2010.

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## ORDER

In accordance with the accompanying memorandum, **IT IS HEREBY**ORDERED THAT:

- 1) Plaintiff's application for leave to proceed *in forma pauperis* (doc. 2) is granted for purposes of this order only.
- 2) The captioned action is dismissed for failure of the amended complaint to state a federal cause of action.
- 3) It is certified that any appeal from this order will be deemed frivolous and not taken in good faith.
  - 4) The Clerk of Court shall close the file.

s/Sylvia H. Rambo United States District Judge

Dated: July 28, 2010.